

## HUMAN SERVICES BOARD

## INTRODUCTION

## FINDINGS OF FACT

2. The Department's notice on May 18 was also triggered by a notice it had received from the petitioner's

bank on May 11, 2007 that there were insufficient funds in the petitioner's account to cover an automatic withdrawal of the premium that the petitioner had previously authorized.

3. The petitioner did not contact the Department by May 31, 2007. On the morning of June 1, 2007 the petitioner called the Department and authorized the Department to charge the premium amount to his credit card. However, when the Department processed the request, the petitioner's credit card company rejected the charges. The petitioner admits that he did not "cover" the amount of his premium payment in his credit card account until later in the day on June 1, some time *after* he had phoned the payment in to the Department. The petitioner further admits that he made no attempt to check with either the Department or his credit card company to see whether his payment had gone through and whether his VHAP was still in effect.

4. On June 4, 2007 the petitioner visited his doctor and incurred a bill for \$184. The petitioner maintains that his doctor's office staff checked his VHAP card, but did not inform him that he was not covered.

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<sup>1</sup>Other members of the petitioner's family have remained eligible for medical benefits under other Department programs.

5. Sometime later that month the petitioner learned that his VHAP had been terminated on May 31, 2007, and that his June 1 credit card payment had been rejected. On June 12 the petitioner sent a money order to the Department to cover the amount of his premium. On June 14, 2007 the Department sent him a notice reinstating his VHAP coverage effective July 1, 2007.

6. The petitioner feels that VHAP should cover the bill he received for the doctor visit on June 4, 2007.

ORDER

The Department's decision is affirmed.

REASONS

In response to a legislative directive (Act 66 of 2003) to enact cost-savings measures designed to sustain the public health care assistance programs, the Department adopted regulations establishing monthly "premiums" to be paid prospectively by VHAP recipients beginning on January 1, 2004. VHAP 4001.91, Bulletin No. 03-17F. Unfortunately, the regulations require that "coverage shall be terminated if an individual does not pay the required program fee by the billing deadline". W.A.M. § 4001.91. In this case there is no dispute that the petitioner did not pay his program fee by

the May 31, 2007 deadline and that he was duly and timely notified by the Department of the closure of his benefits as of that date.

The regulations also provide that individuals terminated from VHAP for non-payment of the premium must pay a new premium and reapply for benefits. W.A.M. § 4001.91. The regulations allow the Department up to 30 days to act on any application for benefits. W.A.M. § 4002.2. Unfortunately, the regulations make no provision for any exceptions or exemptions from the premium payment requirement.

Based on the above regulations, even if the Department had received a valid credit card payment on June 1, it was under no obligation to immediately reinstate the petitioner's benefits. It also cannot be concluded that the "damage" suffered by the petitioner in this case, i.e. the non-coverage of his doctor bill from June 4, would necessarily have been avoided, even if it could be found (which it cannot) that the Department was legally obligated to immediately inform the petitioner when his credit card payment on June 1 did not clear.

At the hearing in this matter, held on June 26, 2007, the Department informed the petitioner that under VHAP rules providers are advised to confirm active VHAP coverage

electronically *before* services are provided. Therefore, the petitioner may have a defense to any attempt by his doctor to collect on the bill for the June 4 office visit. However, insofar as the petitioner's VHAP coverage itself is concerned, inasmuch as the Department's decision in this matter was in accord with the pertinent regulations, the Board is bound to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

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